IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY NINETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 1833 of 1997

Between:

M.Anandam sonof Ailaiah, aged 41 yrs, Occ:Secretary

Primary Agricultural Co-operative society Ltd.,Lakshmipur,Duggondi mandal,Warangal dist.

. PETITIONER

AND

1.The Primary Agricultural Co-operative Society Ltd.,

Lakshmipur,Duggondi mandal,Warangal dt. Rep. By its President.

2.The Primary Agricultural Co-operative society Ltd.,

Penchikalpet,Atmakur mandal,Warangal dt.rep. by its President.

3.TheDistrictCo-operative Officer,Waragal dt. At Warangal.

4.The Commissioner for co-operation and Registrar of

Co-operative societies,Govt. of AP Gruhakalpa buildings,

Mojamjahiroad,Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the orders passed by the third respondent dt.5.12.1996 in Rc.No.1209/96-D1, directing the first respondent to place the petitioner under suspension as illegal, arbitrary ,unconstitutional and out of jurisdiction apart from being violative of principles of natural justice and against the powers vested in him under Section 59 of the A.P.Co-operative Societies Act and also declare the orders passed by the 1st respondent, dt.24-12-1996 as illegal, arbitrary and unconstitutional apart from being violative of principles of natural justice and against the object of Section59 of the A.P.Co-operative Societies Act and consequently set aside the same.

Counsel for the Petitioner: MR.NANDIGAM KRISHANA RAO

Counsel for the Respondents: GP FOR COOPERATION

The Court made the following :

ORDER

1. This Writ Petition is filed by the petitioner aggrieved by the orders passed by the first respondent society in pursuance of the directions of the third respondent to place the petitioner under suspension, pending enquiry with reference to the alleged irregularities that have been committed by the petitioner while working as Paid Secretary in the second respondent's society.

2. The grievance of the petitioner is that when he was not working as an employee of the second respondent society, with reference to which an enquiry was sought to be conducted, there was no necessity to suspend the petitioner. Therefore, the impugned proceedings of the third respondent, and the consequential proceedings of the first respondent, are illegal and unsustainable.

3. The learned counsel for the petitioner also relied upon the provisions of Section 59 of the A.P. Co-operative Societies Act (hereinafter referred to as 'the Act') and sought to contend that the said provisions empower the Registrar to suspend an employee only when the employee is working in a society with reference to which an enquiry was contemplated. Admittedly, the petitioner was working with the first

respondent society, whereas the alleged irregularities and the enquiry is sought to be proceeded with reference to the second respondent society. There is no need to place the petitioner under suspension. The petitioner has also raised certain other contentions as to the legality of the proceedings issued by the first respondent. At the time of hearing, the learned counsel for the petitioner also contended that after completion of the enquiry as contemplated under Section 51 of the Act, surcharge proceedings were initiated against the petitioner and another who were alleged to have been committed the irregularities and it is stated that in the surcharge proceedings, the petitioner was exonerated and was ordered to be proceeded only against the other employee. In the light of the above said fact that the petitioner was exonerated from the charges, there was no justification in continuing the order of suspension against the petitioner.

4. A counter has been filed on behalf of the third respondent, disputing and denying the allegations of the petitioner, stating that the irregularities have been committed with reference to an amount of Rs.1,36,944/- for which the proceedings were initiated against the petitioner and another by name G.Ashok. In view of the initiation of the proceedings against the petitioner and another, the third respondent passed the orders of suspension. The first respondent therefore, consequently passed the order of suspension and the same does not call for any interference.

5. Heard the learned counsel for both sides and considered the material on record.

6. Though an order of suspension suspending the petitioner was passed by the third respondent and consequential order of the first respondent, the contention of the petitioner is that the surcharge proceedings initiated against the petitioner and another were concluded and the petitioner was exonerated from the charge and the liability was fixed against the other person, by name, G.Ashok. In the light of the above, the impugned order does not survive.

7. In the light of the above contentions, the Writ Petition is disposed of directing the petitioner to make a representation to the third respondent for revocation of the order of suspension if not already revoked. If the petitioner has already been reinstated by revoking the order of the third respondent suspending the petitioner, no further action is required. On the other hand, if the petitioner is still continued under suspension, the representation, so made by the petitioner to the third respondent ,is to be considered by the third respondent and appropriate orders have to be passed taking

into account the exoneration of the surcharge proceedings. The said action is directed to be completed within three weeks from the date of representation made by the petitioner.

8. Accordingly, the Writ Petition is disposed of. No costs.

29-07-2004.

Note: Issue urgent copy

B.o.

Hsd/Kvh

Assistant Registrar

// true copy//

Section officer.

To,

1.The Primary Agricultural Co-operative Society Ltd.,

Lakshmipur,Duggondi mandal,Warangal dt. Rep. By its President.

2.The Primary Agricultural Co-operative society Ltd.,

Penchikalpet,Atmakur mandal,Warangal dt.rep. by its President.

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Co-operative societies,Govt. of AP Gruhakalpa buildings,

Mojamjahiroad,Hyderabad.

5. 2 C.Cs to G.P. for co-operation, HighCourt Buildings, Hyderabad (OUT)

6. 2 C.D. copies.